

WILLIAM I. SCHINDLER

IBLA 81-342

Decided April 23, 1981

Appeal from the decision of the Idaho State Office, Bureau of Land Management, declaring mining claims abandoned and void. I MC 42038 through I MC 42043.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: William I. Schindler, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

William I. Schindler has appealed the decision of the Idaho State Office, Bureau of Land Management (BLM), dated January 16, 1981, declaring

the Dream, Apex, Meadow View, Deep Extension, Trail, and Trails End mining claims, I MC 42038 through I MC 42043, abandoned and void for failure to file evidence of annual assessment work on the claims on or before December 30, 1980.

[1] In accordance with section 314(c) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(c) (1976), 43 CFR 3833.2-1(a) provides:

The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

Failure to file the necessary information within the time period prescribed conclusively constitutes abandonment of the claim or claims. 43 CFR 3833.4.

The record shows that the claims were located prior to October 21, 1976, and were filed for recordation with the BLM October 22, 1979. Appellant timely filed the evidence of annual assessment work for 1979. However, the evidence of annual assessment work for 1979 to 1980 was not filed with BLM until January 5, 1981. The assessment year runs from September 1 through August 31.

Appellant does not deny that he failed to timely submit the required information by December 30, 1980, but asserts, essentially, that he was not aware of the filing requirements and was not properly informed of these requirements by BLM. He also asserts that BLM's decision "is based on a regulation and not on a law."

[2] All persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations. Federal Crop Insurance v. Merrill, 332 U.S. 380 (1947); Canyon View Mining Co., 49 IBLA 184 (1980); 44 U.S.C. §§ 1507, 1510 (1976). Accordingly, BLM properly declared the claims abandoned and void. As noted above, the requirement and the consequences of noncompliance are statutory. In enacting the statute, Congress did not invest the Secretary with authority to afford claimants any relief from such consequences.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

